

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Cheetah Omni LLC,)
vs.)
Plaintiff,)
vs.)
1. Verizon Services Corporation,)
2. Verizon Business Network Services Inc.,)
3. Verizon Enterprise Delivery LLC,)
and)
4. Grande Communications Networks , Inc.,)
Defendants.)
)

) HONORABLE LEONARD DAVIS
CIVIL ACTION NO. 6:09-cv-260

)

) JURY TRIAL DEMANDED
)

SECOND AMENDED
COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL

Plaintiff Cheetah Omni L.L.C. ("Cheetah Omni"), by and through its counsel, for its Complaint against Verizon Services Corporation, Verizon Business Network Services Inc., Verizon Enterprise Delivery LLC (collectively "Verizon") and Grande Communications Networks, Inc. ("Grande"), alleges as follows:

I. THE PARTIES

1. Plaintiff Cheetah Omni is a Texas Limited Liability Company (Filing No. 800108661) that does business in this judicial district and elsewhere.

2. Defendant Grande is a Delaware Corporation having a principal place of business at 1923 East 7th Street, Suite 100, Austin, Texas 78702, and operates one or more sales and service locations within this district. Grande is qualified to do business in the state of Texas (File No. 0013188306), and has appointed Douglas T. Brannigan, 401 Carlson Circle, San Marcos, Texas, 78666, as its agent for service of process.

3. Defendant Verizon Services Corporation is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1310 North Courthouse Road, Arlington, Virginia. It is qualified to do business in the State of Texas and in the Eastern District of Texas.

4. Defendant Verizon Business Network Services Inc. is a Delaware Corporation with its corporate headquarters and principal place of business at 22001 Loudon County Parkway, Ashburn, Virginia 20147. It is qualified to do business in the State of Texas and in the Eastern District of Texas.

5. Defendant Verizon Enterprise Delivery LLC is a Delaware limited liability company with its corporate headquarters and principal place of business at 545 E. Carpenter Freeway, Irving, Texas 75062. It is qualified to do business in the State of Texas and in the Eastern District of Texas.

II. JURISDICTION AND VENUE

6. The claims pleaded herein arise under the Patent Act, 35 U.S.C. ' 1 *et seq.*

7. Subject matter jurisdiction for the pleaded claims is conferred upon the Court by 28 U.S.C. ' ' 1331 and 1338.

8. Plaintiff Cheetah Omni resides in this district. Upon information and belief, defendants Verizon and Grande (collectively "Defendants"), both regularly and continuously engage in substantial sales and other business transactions in the Eastern District of Texas, have one or more regular and established places of business within this district, and have committed acts of patent infringement in this district. Accordingly, venue is proper in this district pursuant to 28 U.S.C. ' 1391 and/or 28 U.S.C. ' 1400.

III. PATENTS-IN-SUIT

9. On December 5, 2006, U.S. Patent No. 7,145,704 ("the '704 patent." Exhibit A), titled "Optical Logic Gate Based Optical Router," was duly and lawfully issued to inventor Mohammed N. Islam.

10. On April 21, 2009, U.S. Patent No. 7,522,836 ("the '836 patent," Exhibit B), titled "Optical Logic Gate Based Optical Router," was duly and lawfully issued to inventor Mohammed N. Islam.

11. Plaintiff Cheetah Omni is the owner by assignment of the '704 and '836 patents.

**IV. COUNT I - PATENT INFRINGEMENT
OF U.S. PATENT NO. 7,145,704**

12. Plaintiff Cheetah Omni reaffirms and realleges the allegations contained in the above paragraphs 1-11.

13. On information and belief, Defendants have infringed and are infringing the '704 patent, either directly, by inducing others to infringe, and/or contributorily, by making, using, offering for sale, selling, and/or importing in the United States certain fiber optic communication technology. Verizon refers to the technology as "Fiber To The Premises," "FTTP," and/or "FiOS." Grande refers to the technology as "GForce F," "Fiber-to-the-Home" and/or "FTTH."

14. Plaintiff Cheetah Omni has suffered damages as a result of the infringing activities of the defendants, and will continue to suffer such damage as long as those infringing activities continue.

**V. COUNT II - PATENT INFRINGEMENT
OF U.S. PATENT NO. 7,522,836**

15. Plaintiff Cheetah Omni reaffirms and realleges the allegations contained in the above paragraphs 1-14.

16. On information and belief, Defendants have infringed and are infringing the '836 patent either directly, by inducing others to infringe, and/or contributorily, by making using, offering for sale, selling, and/or importing in the United States certain fiber optic communication technology and associated services. Verizon refers to the infringing technology

as "Fiber To The Premises," "FTTP," and/or "FiOS." Grande refers to the infringing technology as "GForce F," "Fiber-to-the-Home" and/or "FTTH."

17. Plaintiff Cheetah Omni has suffered damages as a result of the infringing activities of the defendants, and will continue to suffer such damages as long as those infringing activities continue.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff Cheetah Omni requests entry of a judgment against defendants granting relief as follows:

- A. Finding defendants liable for infringement of the '704 and '836 patents;
- B. Preliminary and permanent injunctive relief restraining defendants, together with any officers, agents, servants, employees, and attorneys, and such other persons in active concert or participation with the defendants who receive actual notice of the order, from further infringement of the '704 and '836 patents;
- C. Awarding plaintiff Cheetah Omni damages adequate to compensate for defendants' infringement;
- D. Declaring this an exceptional case within the meaning of 35 U.S.C. § 285, and awarding plaintiff Cheetah Omni its reasonable attorney's fees, costs, and disbursements;
- E. Awarding plaintiff Cheetah Omni interest on all damages awarded; and
- F. Granting such other, further and different relief as may be just and equitable on the proofs.

DEMAND FOR JURY TRIAL

Plaintiff Cheetah Omni hereby demands a trial by jury for all issues so triable.

Respectfully submitted,

By: /s/ Thomas A. Lewry
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Attorneys for Plaintiff

Dated: November 9, 2009

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email on November 9, 2009.

By: /s/ Thomas A. Lewry

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